

Sunset Public Hearing Questions for

**Real Estate Commission**

Created by Section 62-13-201, *Tennessee Code Annotated*

(Sunset Termination June 2023)

*Enabling Statute, Purpose, and Rules and Regulations*

1. Provide a brief introduction to the commission, including information about its purpose, statutory duties, staff, and administrative attachment.

The Tennessee Real Estate Commission (“the Commission”) is established by Tennessee Code Annotated § 62-13-101 *et. seq.*, cited as the “Tennessee Real Estate Broker License Act of 1973.” The statute is designed to protect the public from irresponsible or unscrupulous persons dealing in real estate.

Per T.C.A. § 62-13-203, the Commission is vested with the powers and duties necessary and proper to enable it to fully and effectively carry out the provisions and objectives of Chapter 13, including but not limited to: (1) the authority to promulgate and adopt rules and regulations pursuant to the UAPA; and (2) establish canons of ethics and minimum acceptable standards of practice for licensees.

The commission is attached to the Department of Commerce and Insurance (Department) in the Division of Regulatory Boards and employs an Education Director and an Executive Director, who serves at the pleasure of the commission and is responsible for the supervision of twelve (10) staff members who administer the activities associated with the disposition and performance of the required duties.

2. Has the commission promulgated rules and regulations? If yes, please cite the reference.

Yes. The commission has promulgated rules which can be found under Tenn. Comp. R. & Regs. Below are all sections.

- 1260-01-.01 APPLICATIONS FOR EXAMINATIONS.
- 1260-01-.12 FEES.
- 1260-01-.14 FILING OF DOCUMENTS.
- 1260-01-.21 REINSTATEMENT OF AN EXPIRED LICENSE OF A BROKER, AFFILIATE BROKER, TIME-SHARE SALESPERSON, OR ACQUISITION AGENT.
- 1260-02-.01 SUPERVISION OF AFFILIATE BROKERS.
- 1260-02-.02 TERMINATION OF AFFILIATION.

3. Does the commission have the statutory authority to issue private advisory opinions regarding matters within the commission's primary jurisdiction upon request to a licensee?

No program, board, or commission attached to the Division of Regulatory Boards has the authority to issue private advisory opinions. The Department previously provided a list of the entities at the request of the committee.

#### *Commission Organization*

4. Provide a list of current members of the commission and indicate how membership complies with Section 62-13-201, *Tennessee Code Annotated*. For each member, please indicate the appointing authority, statutory member representation, the beginning and end of the member's term, and whether the member is serving a consecutive term. The statute includes language that says in making appointments to the commission, the governor shall strive to ensure that at least one (1) person serving on the commission is sixty (60) years of age or older and that at least one (1) person serving on the commission is a member of a racial minority. Please indicate which members fulfill these statutory recommendations.

<b>Board Member</b>	<b>Appointer</b>	<b>Statutory Member Representation</b>	<b>Term</b>	<b>Consecutive Term?</b>
Kathy Tucker Chattanooga, TN	Governor Lee	Industry & East TN	6/30/2022 – 6/30/2027	First Term
Marcia Franks Franklin, TN	Governor Haslam	Industry & Middle TN	6/30/2018 – 6/30/2023	Consecutive Term
DJ Farris Nashville, TN	Governor Lee	Industry & Middle TN	7/1/2020 – 6/30/2025	First Term
Joan Smith Humbolt, TN	Governor Lee	Industry, West TN, Over 60	6/5/2020 – 6/30/2026	Consecutive Term *Appointed to partial term
Geoffrey Diaz Germantown, TN	Governor Haslam	Industry & West TN	6/30/2018 – 6/30/2023	First Term
Steve Guinn Memphis, TN	Governor Lee	Industry & West TN, Over 60	2/7/2020 – 6/30/2025	First Term* Appointed to partial term
Joe Begley Kingsport, TN	Governor Lee	Industry & East TN	10/2/2019 – 6/30/2025	First Term
Jon A. Moffett Lancaster, TN	Governor Lee	Public, Middle TN, Over 60	7/8/2019 – 6/30/2023	First Term
Stacie Torbett Johnson City, TN	Governor Lee	Public & East TN	11/11/2019 – 6/30/2024	First Term

5. Are there any vacancies on the commission? If so, please indicate how long the position has been vacant and explain steps that have been taken to fill any vacancies.

The commission currently has no vacancies, however, commission members in an expired term continue to serve in their capacity until replaced or reappointed by the Governor's Office. The department works closely with trade associations and other industry stakeholders to provide the Governor's Office with qualified candidates for consideration.

6. How many times did the commission meet in each of the last three fiscal years? How many members were present at each meeting? Please note meetings where the commission did not have a quorum.

The Commission met twelve (12) times in fiscal year 2021, eleven (11) times in fiscal year 2022, and eleven (11) times in fiscal year 2023.

<b>Fiscal Year 2021</b>	<b>Members Present</b>	<b>Notes</b>
Wednesday, July 8, 2020	9	Meeting was held Virtually
Wednesday, August 12, 2020	9	Meeting was held Virtually
Wednesday, September 9, 2020	9	Meeting was held Virtually
Thursday, October 8, 2020	9	Meeting was held Virtually
Thursday, November 12, 2020	9	Meeting was held Virtually
Wednesday, December 9, 2020	9	Meeting was held Virtually
Wednesday, January 13, 2021	8	Meeting was held Virtually
Tuesday, February 16, 2021	8	Meeting was held Virtually
Wednesday, March 10, 2021	7	Meeting was held Virtually
Wednesday, April 7, 2021	9	Meeting was held Virtually
Friday, May 7, 2021	9	One Member attended via WebEx
Wednesday, June 9, 2021	8	

<b>Fiscal Year 2022</b>	<b>Members Present</b>	<b>Notes</b>
Wednesday, July 7, 2021	8	
Wednesday, August 11, 2021	9	
Wednesday, September 8, 2021	9	
Thursday, October 14, 2021	6	
Wednesday, November 10, 2021	7	
Wednesday, January 12, 2022	7	
Tuesday, February 8, 2022	6	
Wednesday, March 9, 2022	9	

Wednesday, April 13, 2022	9	One Member attended Virtually
Thursday, May 12, 2022	8	
Wednesday, June 8, 2022	9	

<b>Fiscal Year 2023</b>	<b>Members Present</b>	<b>Notes</b>
Wednesday, July 13, 2022	Cancelled Due to Quorum	
Monday, August 29, 2022	9	
Thursday, October 13, 2022	7	
Wednesday, November 9, 2022	9	
Wednesday, December 7, 2022	9	
Wednesday, January 11, 2023	6	
Tuesday, February 7, 2023	7	
Wednesday, March 8, 2023	8	
Wednesday, April 12, 2023	9	
Wednesday, May 10, 2023	6	
Wednesday, June 14, 2023	8	

#### *Executive Director and General Counsel*

7. Does the commission have an executive director? How is the executive director selected or appointed? What oversight does the commission have over the executive director?

The Executive Director of the Real Estate Commission is an executive service appointment, which is selected by the Commission in accordance with TCA 62-13-207(a). The Executive Director oversees the commission staff, supports the commission's responsibilities, and reports to the Assistant Commissioner for the Division of Regulatory Boards.

8. Does the commission have a general counsel? How is the general counsel selected or appointed?

The Commission is supported by the Department's Legal Division which includes attorneys with specified duties for each board and commission. Each board and commission are assigned one of multiple attorneys who advise the board or commission on programmatic or disciplinary matters.

#### *Financial Information*

9. What were the commission's revenues and expenditures for each of the last three fiscal years? Is the commission currently self-sufficient under the provisions of Section 4-29-

121, *Tennessee Code Annotated*? Does the commission carry a fund balance? If yes, please provide additional relevant information regarding the fund balance.

Fiscal Year	Revenues	Expenditures	Revenue Less Expense	Cumulative Reserve
2019- 2020	\$2,552,887	\$1,937,490	\$615,396	\$6,616,420
2020- 2021	\$2,847,173	\$2,262,468	\$584,704	\$7,201,125
2021- 2022	\$2,973,656	\$2,024,534	\$949,121	\$8,150,246
2022- 2023*	\$2,801,538	\$2,035,494	\$571,144	\$8,721,391

\*FY 2022-2023 numbers are as of May 2023.

The Commission is currently self-sufficient and meets the requirements of TCA 4-29-121.

10. What per diem or travel reimbursements do commission members receive? How much was paid to commission members in each of the last three fiscal years?

Fiscal Year	Per Diem	Travel Reimbursements
2019- 2020	\$3,950	\$24,636
2020- 2021	\$5,650	\$6,169
2021- 2022	\$3,800	\$32,368
2022- 2023*	\$2,850	\$38,885

The table above indicates per diem and travel reimbursements for the past three fiscal years. FY 2022-2023 is updated through May 2023.

Board members receive per diem in accordance with TCA 56-1-307(a) in an amount of \$50 for each day spent in the performance of their official duties. Board members are also reimbursed for travel expenses to and from meetings or other official board business.

11. Please provide a list of fees collected and indicate whether these fees were established through rule or through state law.

**1260-01-.12 FEES.** The following fees shall apply:

- (1) For each examination, a fee to be paid to the testing vendor as set by state contract;
- (2) For the issuance of an original license, a fee to be paid to the Commission of ninety dollars (\$90.00);
- (3) For each renewal of a license, a fee to be paid to the Commission of seventy-five dollars (\$75.00);
- (4) A fee to be paid to the Commission for each of the following:
  - (a) Change of Principal Broker, twenty-five dollars (\$25.00);

- (b) Transfer of affiliation or transfer in or out of retirement status, twenty-five dollars (\$25.00);
  - (c) Certification of licensure, twenty-five dollars (\$25.00);
  - (d) Bad checks shall be subject to the penalties and fees set out in T.C.A. §§ 9-1-108 and 9-1-109.
- (5) A penalty fee of fifty dollars (\$50.00) per month, or portion thereof, for failing to timely renew a license if the licensee reinstates the license within the sixty (60) day time frame set forth in T.C.A. § 62-13-319(a); provided however, the Commission shall have the discretion to waive or lower said fee for good cause shown.
- (6) When any individual applies for an original license as a broker, affiliate broker or time-share salesperson, the applicant shall pay, in addition to the original license fee, a fee in the amount of one dollar (\$1.00) for deposit into the real estate education and recovery account.

**1260-05-.15 FEE FOR EDUCATIONAL COURSE APPLICATION.**

- (1) Before any educational course is reviewed for approval by the Commission, the following non-refundable fees shall be paid according to the following hourly credit schedule:
- (a) any course not exceeding eight (8) hours a fee of ten dollars (\$10.00);
  - (b) any course from nine (9) hours to thirty (30) hours a fee of twenty-five dollars (\$25.00);
  - (c) any course exceeding thirty (30) hours a fee of fifty dollars (\$50.00).
- (2) In addition to the above fees, a twenty-five dollar (\$25.00) fee shall be paid for each course instructor.

*Sunshine Law, Public Meetings, and Conflict of Interest Policies*

12. Is the commission subject to Sunshine law requirements (Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes? If so, what procedures does the commission have for informing the public of meetings and making minutes available to the public?

Yes, the Commission is subject to Sunshine law requirements (per Section 8-44-101 et seq., *Tennessee Code Annotated*) for public notice of meetings, prompt and full recording of minutes, and public access to minutes. The Commission utilizes its webpage to inform

the public of its meetings and make its minutes available to the public. Public meeting information for future Commission meetings can be found [here](#).

13. Does the commission allow for public comment at meetings? Is prior notice required for public comment to be heard? If public comment is not allowed, how does the commission obtain feedback from the public and those they regulate?

The Commission allows and welcomes public comment at meetings. Prior notice is not required for public comment. The Department's Public Comment Policy, which encourages participation by the public, in accordance with Governor Lee's priorities, can be found [here](#).

14. Does the commission have policies to address potential conflict of interest by commission members, employees, or other state employees who work with the commission?

Yes, the policy is provided.

15. Does the commission have a website? If so, please provide the web address. What kind of public information is available on the website?

Yes, the Commission website can be found [here](#). The website contains information on news, licensee/applicant resources, education requirements, education courses, public meeting information, rules, laws, consumer resources, and frequently asked questions. Additionally, the contact information for the Commission's staff is provided on the website.

#### *Real Estate Commission Education and Recovery Account*

16. Section 62-13-208, *Tennessee Code Annotated*, establishes the Real Estate Commission Education and Recovery Account. Please provide a brief update on the status of the Real Estate Commission Education and Recovery Account.

Since the last Sunset Hearing, the Commission has made many efforts to ease access to the Account and to also reduce future growth to the account. Specifically, any aggrieved person is permitted to recover from the account for compensatory damages resulting in violations of any statute or rule committed by a licensee without a court order. Aggrieved persons must also notify the Commission of such act in writing, by certified mail, and return receipt requested. Lastly, it is no longer required that aggrieved persons first obtain a valid judgment, terminate all reviews, appeals, judgments, remedies at law, and receive an order from a court of competent jurisdiction directing the Commission to make payment, in order to access funds available in the account.

Since this change, we have had one claim against the account that the Commission granted.

#### *Application and Licensure Process*

17. Describe the criteria for issuing a license. How were these criteria determined? How long does the licensing process take? What are the established time goals for obtaining a license? Are those goals being met?

The criteria for issuing a license are determined by Tenn. Code Ann. § 62-13-303. Over the fiscal years 2021-2023, the Commission has processed initial applications for licensure in an average of seven (7) business days. The Departmental goal for licensure is to maintain or decrease the aggregate average licensing time for the Division of Regulatory Boards. Per this goal, the Commission has increased processing time.

Please see the below requirements per license type:

Affiliate Broker Candidates:

- Application signed by Principal Broker
- Proof of High School Graduation
- Proof of completion of Affiliate Broker examination
- Proof of completion of pre-license education (60 hours & 30 hours)
- Proof of Errors and Omissions insurance
- Payment of all fees due (\$91 total)
- Eligibility Verification
- Electronic Fingerprinting
- At least 18 years of age

Real Estate Broker Candidates:

- Application signed by Principal Broker
- Proof of completion of Broker examination
- Proof of completion of 30 hour Office Broker Management course
- Proof of Errors and Omissions insurance
- Eligibility Verification
- Electronic Fingerprinting
- At least 18 years of age
- Payment of all fees due (\$91 total)

Designated Agent License or Vacation Lodging Service Candidate:

- All applicants must have completed the required approved 8 hour pre license course and the certificate of completion must accompany this application.
- The applicant must be at least 18 years of age.
- The applicant must provide proof which the Commission determines satisfactory, that they have a high school degree or a general educational development certificate (GED).
- Eligibility Verification
- Electronic Fingerprinting
- Payment of all fees due (\$100.00 total)

Timeshare Salesperson Candidate:

- Eligibility Verification
- Payment of all fees due (\$91 total)



- Timeshare Salesperson Candidate Pre-license Verification form
- Electronic Fingerprinting
- Proof of Errors and Omissions Insurance
- At least 18 years of age

Acquisition Agent Candidate:

- At least 18 years of age
- Payment of all fees due (\$100.00 total)
- Electronic Fingerprinting
- Proof of examination

Non-resident Candidate:

- Proof of completion of state portion of the examination type of license in resident's state
- Certificates showing completion of pre-license education
- Certificates showing completion of continuing education

Initial Firm License:

- Completion of application
- Bank escrow information or waiver of escrow
- Zoning letter
- Articles of Incorporation
- Active Principal Broker

Vacation Lodging Service Candidate:

- Completion of application

Timeshare Firm Registration Candidate:

- Completion of application

18. How many individuals and/or businesses are currently licensed by the commission? Please provide a list by category/type of license.

<b>Profession Count by Type</b>	
<b>Profession</b>	<b>June 2023</b>
Acquisition Agent License	180
Acquisition Agent Registration	42
Acquisition Representative Registration	2,330
Affiliate Broker	37,600
Designated Agent	192
RE Broker	8,318
Real Estate Firm	4,757
Time Share Exempt	148
Time Share Registration	21
Time Share Sale	946

Vacation Lodging Service	203
<b>Total</b>	<b>54,737</b>

<b>License Type</b>	<b>Status</b>	<b>June 2023</b>
Individual	Active	43,267
Individual	Broker Release	2
Individual	Inactive	1
Individual	Retired	6,298
Individual	Suspended	972
Individual	Vol Surrendered	3,987
Firm	Active	5,128
Firm	Retired	43

19. How many applications did the commission receive in each of the last three fiscal years? By category, how many applications were approved and a license granted? How many applications were rejected? Of those rejected, what was the primary reason for rejection?

If an application is incomplete the application will expire after ninety (90) days. The status will change from applicant to “expired,” but the application will stay in our system for record keeping purposes.

Fiscal Year 2020-2021	
Total Applications received by TREC	55,988
Initial Applications received	7,475
Initial Applications approved	6,663
Initial Applications denied	0

Fiscal Year 2021-2022	
Total Applications received by TREC	53,462
Initial Applications received	6,782
Initial Applications approved	6,092
Initial Applications denied	0

Fiscal Year 2022-2023*	
Total Applications received by TREC	39,981
Initial Applications received	6,339
Initial Applications approved	5,501
Initial Applications denied	0

\* FY 2023 is only updated to June 16, 2023.

20. How many licenses were revoked during the same time period? What were the primary reasons for revocation? Please provide information by type of license.

License Type	Rank	FY 20-21	FY 21-22	FY22-23
2501 - Real Estate Agent	Time Share Salesperson	10	108	1
	Affiliate Broker	6	179	5
	Real Estate Broker	1	32	1
2502 - Real Estate Firm	Real Estate Firm		1	
	<b>Total</b>	<b>17</b>	<b>319</b>	<b>7</b>

Most revoked licenses were due to a lack of statutorily required errors and omissions insurance (“E&O”). Once a licensee is suspended for one year due to lack of E&O insurance, their license is, by statute, automatically revoked. On 1/1/21, 80% of licensees’ E&O insurance policies expired. Therefore, licensees that failed to renew their E&O, and remained suspended for one (1) year were revoked. The remaining licensees were revoked for disciplinary reasons.

21. Is there a statutory provision that allows for license reciprocity? If yes, please provide a brief explanation of the reciprocity provisions. If no, does there need to be?

Yes. Tenn. Code Ann. § 62-13-314 is the statute for service of process on nonresidents. In summary, nonresident licensed affiliate brokers, brokers, or timeshare salespersons are permitted to apply for licensure if their education and experience is equal to or exceeds to qualifications for the Commission. Further, Tenn. Code Ann. § 62-13-314 provides the Commission the authority to enter reciprocal agreements with other jurisdictions if necessary.

#### *Complaint Handling Process*

22. Describe the complaint handling process. Please explain how consumers are made aware of the process for filing a complaint, how complaints are taken and investigated, how complaints are resolved and what actions may be taken as a result.

The Commission engages in various consumer education efforts on a range of topics through communication and specific outreach efforts. These efforts may include opinion editorials, social media postings, speaking engagements, industry partnerships or various other communications to consumers and licensees. Throughout the course of these efforts, consumers are educated on how the complaint process works and encouraged to do if they are aware of suspected statutory violations. Consumers may reach the Commission by phone to begin the complaint filing process or file a complaint online [here](#).

A complaint may be opened by a member of the public, or administratively at the direction of management. Once filed, the complaint is then reviewed by a centralized consumer complaints division and routed to the appropriate program. If the complaint is a candidate for an agreed citation this will be sent out by the program office. If it is not a candidate for agreed citation, the complaint is referred to the legal counsel serving as a disciplinary counsel to that program.

From there the attorney will review the complaint and supplemental evidence and the respondent's response to the complaint. The attorney may send the complaint out for inspection or investigation depending on the particulars of the complaint. Once the attorney has the necessary information, they write a summary of the complaint to present to the commission/board/ commissioner. The summary will have the attorney's recommendation on how to proceed with the case. Once the Commission reviews the summary and asks the attorney for any other information required to make a determination, they will vote on a course of action that the attorney will take to resolve the complaint. This could be closing the complaint, attempting settlement through a consent order, and ultimately take the complaint to a formal hearing.

23. What are the time goals for resolving complaints and are those goals being met?

The Division of Regulatory Boards utilizes shared resources to support the complaint process for various regulated professions. The division's current metric is that 90% of complaints submitted to the division are to be resolved within 180 days. The division considers complaints to be resolved once a case has entered a final disposition such as a consent order being signed by the respondent, or a complaint being authorized for a formal hearing.

The Legal Division, which supports the complaint process, utilizes performance metrics for attorneys who are assigned to complaints. These benchmarks help ensure that cases are being resolved, litigated, closed, or referred to other agencies in a timely manner.

24. How many complaints were received in each of the last three fiscal years? What types of complaints were received? What, if any, enforcement actions did the commission take as a result of complaints filed?

Fiscal Year	Complaints Received
2019- 2020	967
2020- 2021	1052
2021- 2022	957
2022- 2023*	941

\*Reflects complaints received from 7.1.2022 – 6.25.2023

The table above indicates the number of complaints received for the three previous fiscal years. If violations of statutes or rules are found, enforcement actions may be pursued, which could include issuing a letter of warning or instruction, informal discipline through an agreed Consent Order, or formal discipline through a contested hearing. Informal or formal discipline may result in assessed civil penalties, assessed investigatory and hearing costs, and/or the suspension or revocation of an issued license. Additionally, parties may agree additional stipulations as part of a Consent Order and informal discipline.

*Reports, Major Accomplishments, and Proposed Legislative Changes*

25. What reports does the commission prepare concerning its activities, operations, and accomplishments? Who receives copies of these reports? Please provide a link to any such reports issued in the last three fiscal years.

TREC produces a newsletter. The newsletters were posted to TREC's website and available for viewing. These are sent out to all licensees signed via e-mail through a MyEmma Platform.

Fiscal Year 2021: [Summer 2020 Newsletter](#) & [Spring 2021 Newsletter](#)

Fiscal Year 2022: [Fall 2021 Newsletter](#) & [Spring 2022 Newsletter](#)

Fiscal Year 2023: See attachment for reminder notice sent to licensees.

26. What were the commission's major accomplishments during the last three fiscal years?

The major accomplishments are improved processing times, implementing a successful education tracking platform, and receiving contract approval for pre-licensing education in the distressed counties.

Additionally, on the licensing side we have seen significant improvements as well. Licenses are processed on an average of seven (7) days. The response resolution time for inquiries to the Commission is averaging six (6) minutes.

27. Please describe any items related to the commission that require legislative attention and your proposed legislative changes.

While the Commission and the Department continue looking for innovative ways to pursue public protection and the fair regulation of the real estate profession, there are currently no legislative proposals from this program.

28. Should the commission be continued? To what extent and in what ways would the absence of the commission affect the public health, safety, or welfare of the citizens of Tennessee?

Yes, the board should be continued. The board's licensure requirements and regulations ensure that industry professionals meet standards that are necessary for providing adequate protections for Tennesseans. Additionally, the board's enforcement actions deter nefarious business practices or other actions that may be harmful to Tennessee consumers.

29. Please identify the appropriate commission representative or representatives who will respond to the questions at the scheduled sunset hearing.

Commission Member D.J. Farris  
Alex Martin, Assistant Commissioner  
Division of Regulatory Boards

30. Please provide the office address, telephone number, and email address of the commission representative or representatives who will respond to the questions at the scheduled sunset hearing.

Alex Martin, Assistant Commissioner for the Division of Regulatory Boards  
Alex.Martin@tn.gov  
500 James Robertson Pkwy, 10th FL  
Davy Crockett Tower  
Nashville TN 37243  
615-532-3445

The Commission's Executive Director position is currently vacant. The Commission is in the process of hiring for this role.